

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERTO SALDANA, JR.,)	No.: 1:21-cv-01733-KES-HBK (HC)
)	
Petitioner,)	ORDER ADOPTING FINDINGS AND
)	RECOMMENDATIONS, DENYING PETITION
v.)	FOR WRIT OF HABEAS CORPUS,
)	DIRECTING CLERK OF COURT TO CLOSE
M. E. SPEARMAN, Warden,)	CASE, AND DECLINING TO ISSUE
)	CERTIFICATE OF APPEALABILITY
Respondent.)	
)	Docs. 1, 31
)	

Petitioner Roberto Saldana, Jr. is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. 9. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 23, 2025, the assigned magistrate judge issued findings and recommendations recommending that the petition for writ of habeas corpus be denied as without merit, and that the Court decline to issue a certificate of appealability. Doc. 31. Those findings and recommendations were served upon all parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. Petitioner has not filed objections, and the deadline to do so has expired.

In accordance with 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case. Having carefully reviewed the matter, the Court concludes the findings and

1 recommendations are supported by the record and proper analysis.

2 Having found that petitioner is not entitled to habeas relief, the Court turns to whether a
3 certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no
4 absolute entitlement to appeal, rather an appeal is allowed only in certain circumstances. *Miller-*
5 *El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 2253. If a Court denies a habeas
6 petition on the merits, the Court may issue a certificate of appealability only “if jurists of reason
7 could disagree with the district court’s resolution of [the petitioner’s] constitutional claims or that
8 jurists could conclude the issues presented are adequate to deserve encouragement to proceed
9 further.” *Miller-El*, 537 U.S. at 327; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). While the
10 petitioner is not required to prove the merits of his case, he must demonstrate “something more
11 than the absence of frivolity or the existence of mere good faith on his . . . part.” *Miller-El*, 537
12 U.S. at 338.

13 The Court finds that reasonable jurists would not find the Court’s determination that the
14 petition should be denied debatable or wrong, or that the issues presented are deserving of
15 encouragement to proceed further. Petitioner has not made the required substantial showing of
16 the denial of a constitutional right. Therefore, the Court declines to issue a certificate of
17 appealability.

18 Based upon the foregoing, the Court ORDERS:

- 19 1. The findings and recommendations issued on April 23, 2025, Doc. 31, are
20 ADOPTED in full.
- 21 2. The petition for writ of habeas corpus, Doc. 9, is DENIED.
- 22 3. The Court declines to issue a certificate of appealability.
- 23 4. The Clerk of the Court is directed to close the case.

24
25
26 IT IS SO ORDERED.

27 Dated: June 23, 2025

28

UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28